

BY PLANNING INSPECTORATE PORTAL

The Planning Inspectorate
Temple Quay House
2 The Square
Bristol
BS1 6PN

LPA ref: 5/2022/0927

14th December 2022

Dear Sir or Madam,

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)
SECTION 78 PLANNING APPEAL – REQUEST FOR A PUBLIC INQUIRY

We are writing to you on behalf of our client, Alban Developments Limited and Alban Peter Pearson, CALA Homes (Chiltern) Ltd and Redington Capital Ltd ("the Appellants"), who have today lodged an appeal under section 78 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act") against St Albans City & District Council's ("the Council") refusal of outline planning permission (ref: 5/2022/0927) for the development at Land south of Chiswell Green Lane in Chiswell Green ("Appeal Site").

The development proposal subject to this appeal are described as follows:

"Outline application (access sought) - Demolition of existing structures and construction of up to 391 dwellings (Use Class C3), the provision of land for a new 2FE Primary School, open space provision and associated landscaping. Internal roads, parking, footpaths, cycleways, drainage, utilities and service infrastructure and new access arrangements" ("the Appeal Proposals").

Planning permission was refused by the Council on 6th December 2022.

APPEAL DOCUMENTS

In accordance with the Procedure Guide: Planning Appeals – England ("the Appeal Procedure Guidelines") published by the Planning Inspectorate in November 2020, we have sent a copy of this letter and the following documents to the Council when lodging the appeal:

- Planning Appeal Application Form;
- The Appellant's Statement of Case (SOC);
- Draft Statement of Common Ground (SOCG); and
- Draft List of Core Documents.

In the interests of transparency, the Appellants advise that the draft SOCG has not yet been reviewed or agreed by the Council. The Appellants will seek to work with the Council submit an agreed version of the SOCG, including suggested conditions and any Heads of Terms, in accordance with the appeal programme specified by the Planning Inspectorate.

APPEAL PROCEDURE

Section 319A of the 1990 Act gives the Secretary of State the power to determine the procedure for dealing with appeals. Guidance is contained in Annexe K of the Appeal Procedure Guidelines that are to be used by Appellants to inform their choice of appeal. Applying these guidelines, the Appellant has requested that the Appeal be dealt with by the 'Inquiry' procedure. The reasons for this are explained below.

Annexe K of the Appeal Procedure Guidelines state that an inquiry would be appropriate if, inter alia:

- There is a clearly explained need for the evidence to be tested through formal questioning by an advocate¹; or
- The issues are complex²; or
- The appeal has generated substantial local interest to warrant an inquiry as opposed to dealing with the case by a hearing³...

The decision notice issued by the Council sets out two reasons:

1. The proposed development comprises inappropriate development, for which permission can only be granted in very special circumstances, these being if the harm to the Green Belt and any other harm is clearly outweighed by other considerations (paragraph 148 NPPF 2021). We do not consider that the benefits outweigh the harm caused by this proposed development due to the harm to the Green Belt openness and purposes relating to encroachment to the countryside, urban sprawl and merging of towns. The harm also relates to landscape character and the loss of agricultural land. The proposal is therefore contrary to the National Planning Policy Framework 2021, Policy S1 of the St Stephen Parish Neighbourhood Plan 2019-2036 and Policy 1 of the St Albans District Local Plan Review 1994.
2. In the absence of a completed and signed S106 legal agreement or other suitable mechanism to secure the provision of 40% affordable housing provision; 3% self-build dwellings; 10% biodiversity new gain; provision of open space and play space; health contributions (towards ambulance services and GP provision); education contributions (primary, secondary and Special Education Needs and Disabilities); library service contribution; youth service contribution; leisure and cultural centres contribution; provision of highways improvements and sustainable transport measures; and safeguarding of land at the site for a new two form entry primary school, the infrastructure needs of the development and benefits put forward to justify Very Special Circumstances would not be met and the impacts of the proposal would not be sufficiently mitigated. The proposal is therefore contrary to the National Planning Policy Framework 2021, the St Stephen Parish Neighbourhood Plan 2019-2036 and Policy 143B (Implementation) of the St. Albans District Local Plan Review 1994.

The above matters give rise to a range of complex technical issues that will require a range of expert evidence to be prepared. To allow the Inspector to assess the impacts of the proposals, the Appellants evidence (and that of the Council) will need to be forensically tested by an advocate through cross examination.

¹ This does not preclude an appellant representing themselves as an advocate.

² For example, where large amounts of highly technical data are likely to be provided in evidence.

³ Where the proposal has generated significant local interest a hearing or inquiry may need to be considered. In such circumstances the local planning authority should indicate which procedure it considers would be most appropriate taking account of the number of people likely to attend and participate at the event. We will take that advice into account in reaching the decision as to the appropriate procedure.

As will be confirmed by the Council when completing their appeal questionnaire, a large number of letters of representation (circa. 840) have been received in response to the outline planning application. There is therefore a significant chance that a considerable number of people will wish to participate in the appeal process, thereby making an Informal Hearing impracticable.

On this basis, the Appellant considers that a Public Inquiry is the most appropriate way forward. It is estimated that 4 days will be required for the Inquiry.

In accordance with the Appeals Procedure Guidelines, written notice was issued to the Planning Inspectorate and the Council on 29th November 2022 (10 working days prior to these Appeals being lodged) advising of the Appellants' intention to request that the Appeals be considered by an Inquiry. The Council subsequently issued its decision on 6th December 2022.

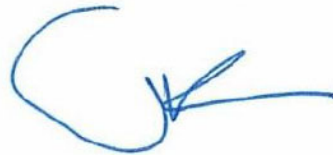
The Appellants look forward to receiving confirmation from the Planning Inspectorate of the Inquiry date, which we trust will take place within the 13-16 week window following the start of the Appeal in accordance with Rosewell Review.

In the meantime, we trust that the appeal documentation is in order and look forward to receiving confirmation that the Appeal has been registered. If you require any further information or wish to discuss matters further please do not hesitate to contact the writer at this office.

Yours sincerely,



John Boyd MRTPI
Partner
john.boyd@carterjonas.co.uk



Justin Kenworthy MRTPI
Director
justin.kenworthy@bartonwillmore.com

Enc.